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## **Council of Europe Access Info Group (AIG)**

### **Draft Baseline Evaluation Report on the implementation of the Council of Europe Convention on Access to Official Documents (CETS No. 205) – Spain**

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## I. Introduction

1. The Council of Europe Convention on Access to Official Documents (CETS No. 205, hereinafter “the Convention”) entered into force on 1 December 2020. It is the first binding international legal instrument to recognise a general right of access to official documents held by public authorities.

2. The Convention lays down minimum obligations for its Parties on the scope of the right to access official documents upon request, the balancing exercise between the protection of the public interest in transparency and the protection of other legitimate rights and interests, the procedures for handling a request for access and the review of decisions. It also sets out other measures to ensure the transparency of public authorities’ activities, such as those relating to the management of documents and publication of official documents at the authorities’ own initiatives.

3. An important added value of the Convention is its monitoring mechanism, which consists of the Council of Europe Access Info Group (“the AIG”) and the Consultation of the Parties. The AIG is composed of a minimum of 10 and a maximum of 15 independent and impartial experts, appointed on the basis of their recognised expertise in the field of access to official documents. On 31 March 2022, the Consultation of the Parties elected 10 members for a term of four years, renewable once. The AIG’s task is to monitor the implementation of the Convention by the Parties, notably by reporting on the adequacy of the measures in law and practice taken by the Parties to give effect to the provisions set out in the Convention.

4. This report is produced by the AIG on the basis of the report submitted by Spain pursuant to Article 14, paragraph 1, of the Convention (Doc AIG/Inf(2025)04, 30 December 2024). As a first step, the Party responded to a Questionnaire on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Access to Official Documents (Doc. AIG(2022)01, adopted by the AIG on 17 November 2022). [Another source of information for the work of the AIG is civil society, and comments were received from Access Info Europe]. [In the spirit of dialogue with the Parties to the Convention, the AIG requested comments from Spain on the final draft of this report, which were considered before its adoption]. This report will be published together with any further comments received by the Party after its adoption.

5. The baseline evaluation focuses on the legislative act whose main objective is to regulate the right to access official documents, that is the Law on Transparency, Access to Public Information and Good Governance<sup>1</sup> (hereafter “the Law on Transparency”). It does not analyse other specialised legislation, such as that on archives or legislation which may contain provisions that regulate access to specific types of information, for example, information containing personal data, information of relevance to national or public security, information belonging to the banking sector. Such analysis would have required additional information from the Party and an in-depth examination of numerous other laws which was not feasible in the first evaluation round carried out by the AIG covering all Parties to the Convention. The AIG, therefore, plans to evaluate the implementation of the Convention by its Parties in specific sectors in its subsequent evaluation rounds, in accordance with its Rules of Procedure. [Having considered the different approaches taken by the Parties, the AIG will adopt its position on the concept of “drawn up” provided for in Article 1, paragraph 2, of the Convention after its baseline evaluation.]

6. This report is intended to assist the Party in its efforts to ensure compliance with the Convention.

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<sup>1</sup> Adopted 9 December 2013.

## II. Article 1 – General Provisions

### *The meaning of public authorities*

7. The Law on Transparency applies to the general State administration, the administrations of the autonomous communities and the cities of Ceuta and Melilla, the local administration (Article 2(1)(a)) and to public law entities with their own legal personality, linked to or dependent on any of the state or local administration entities (Article 2(1)(d)). It also applies to the King's Household, the Congress of Deputies, the Senate, the Constitutional Court and the General Council of the Judiciary, the Bank of Spain, the Council of State, the Ombudsman, the Court of Auditors, the Economic and Social Council and similar autonomous institutions in relation to their activities subject to administrative law (Article 2(1)(f)). The managing bodies and common services of the Spanish Social Security (Article 2(1)(b)) and public law corporations, with regard to their activities that are subject to administrative law (Article 2(1)(e)), fall under the scope of application of the Law on Transparency. These provisions are generally in line with Article 1, paragraph 2, sub-paragraph a, i, of the Convention. One aspect which is not clear from the law and would benefit from the Party's clarification is whether judicial authorities are considered as public authorities insofar as they perform administrative functions.

8. The Law on Transparency lists various independent entities falling under its scope of application. These include autonomous bodies, state agencies, public enterprise entities and public law entities which are entrusted with regulatory or supervisory functions in a specific sector or activity (Article 2(1)(c)), as well as public law entities with their own legal personality, linked to or dependent on any these entities, including public universities (Article 2(d)). Commercial companies owned by and associations set up by the entities listed in Article 2 of the Law on Transparency and public sector foundations also fall under its scope of application (Article 2(1) sub-paragraphs g, h and i). These provisions are generally in line with Article 1, paragraph 2, sub-paragraph a, ii, 3 of the Convention, which is an optional provision of the Convention. Since the Convention applies to all natural or legal persons insofar as they exercise administrative authority, as stipulated in Article 1 (2), a (i) 3, the Party is invited to explain whether administrative authority may be exercised by a subject that is not included in the list set out in Article 2 (1) of the Act.

9. Article 5 of Law 30/1992 of 26 November 1992 on the Legal System for Public Administrations and Common Administrative Procedure lists a number of cooperation bodies. These are included within the scope of Title I of the Law on Transparency (Article 2(i)). The Party is invited to clarify which bodies fall within the scope of the application of the Law on Transparency under its Article 2(i), notably by providing examples, and which bodies do not.

### *The meaning of official documents*

10. Article 13 of the Law on Transparency defines the public information to which it is applicable as "the contents or documents, whatever their format or medium, which are held by any of the subjects included in the scope of application of [ title I "Transparency of the Public Activity] of the law and which have been drawn up or acquired in the exercise of their functions". The AIG recalls that according to Article 1, paragraph 2, sub-paragraph b, of the Convention, "official documents" means all information recorded in any form, drawn-up or received and held by public authorities. This provision of the Convention does not contain a condition according to which information must relate to the exercise of their functions of the public authorities. The Party is invited to clarify the aim of the phrase "in the exercise of their functions", and what information held by public authorities is considered as not being held in the exercise of their functions.

11. According to Article 18 (1) of the Law on Transparency, requests for information shall be denied if they refer: (a) to information that is being drafted or that it is for general publication; (b) to auxiliary or supporting information, such as the content of notes, drafts, opinion papers, summaries, internal communications and reports or exchanges between administrative bodies or entities; (c) or to information which would require a previous action of redrafting in order to be disclosed. The Party has noted in its report that these categories of information refer to the concept of public information in Article 1, paragraph 2, sub-paragraph b, of the Convention.<sup>2</sup> It is not clear whether denials of access on the basis of Article 18(1), sub-paragraphs a-c, would be justified on the ground that the information covered by them is not considered as public information under the Law on Transparency or whether they would be justified as absolute statutory exemptions to the right of access. Therefore, the AIG invites the Party to clarify whether information covered by Article 18(1), sub-paragraphs a-c, is considered as public information under the Law on Transparency. In addition, it is invited to clarify what is information which would require a previous action of redrafting in order to be disclosed.

### **III. Article 2 – Right of access to official documents**

12. Article 12 of the Law on Transparency guarantees the right of access to public information for all persons in accordance with Article 105.b) of the Constitution as developed by this Law. According to the Party, the referenced provision of the Constitution states that the law shall regulate citizens' access to archives and administrative records, except in matters affecting the security and defence of the State, the investigation of crimes and the privacy of individuals. The AIG notes that this provision mentions citizens rather than persons, as does the Law on Transparency. The Party is invited to clarify whether the link to the Constitution implies that only Spanish citizens have access rights under the Act, or if any other provision of Spanish law guarantees the right of access to all individuals regardless of their nationality.

13. The Party has explained that while the applicant is not obliged to motivate his/her request, reasons given for requesting information may be taken into consideration by public authorities. The absence of motivation shall not in itself be a ground for refusal of the request.

14. The AIG notes that it appears that a request for information may be rejected on a combination of grounds, including the reasons for requesting information. The Party is invited to provide further information, preferably examples, of what such grounds and reasons may justify a denial of access apart from the exemptions in Article 14 of the Act.

### **IV. Article 3 – Possible limitations to access to official documents**

15. Limitations to the right of access to public information are listed by Articles 14 and 15 of the Law on Transparency. The limitation(s) set out in:

- Article 14(1)(a)(b)(c) correspond to Article 3, paragraph 1, sub-paragraph a, of the Convention;
- Article 14(1)(d) corresponds to Article 3, paragraph 1, sub-paragraph b, of the Convention;
- Article 14(1)(e) corresponds to Article 3, paragraph 1, sub-paragraphs c and d, of the Convention;
- Article 14(1)(f) corresponds to Article 3, paragraph 1, sub-paragraph i, of the Convention;
- Article 14(1)(g) corresponds to Article 3, paragraph 1, sub-paragraph e, of the Convention;

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<sup>2</sup> AIG/Inf(2025)04, p. 16. With regard to information referred to in Article 18(1) a, the Party has stated that the information does not yet exist. Ibid.

- Article 14(1)(h) corresponds to Article 3, paragraph 1, sub-paragraph g, of the Convention;
- Article 14(1)(i) corresponds to Article 3, paragraph 1, sub-paragraph h, of the Convention;
- Article 14 (1) (k) appears to correspond to Article 3, paragraph 1, sub-paragraph k, of the Convention;
- Article 14 (1) (j) corresponds partially to Article 3, paragraph 1, sub-paragraph g, of the Convention;
- Article 14(1) (l) corresponds to Article 3, paragraph 1, sub-paragraph j, of the Convention;
- Article 15(1)-(3) correspond to Article 3, paragraph 1, sub-paragraph f, of the Convention.

16. Article 14(1) (j) provides for the limitation of the right of access to information for the purpose of protecting professional secrecy. This is not as such listed as a protected interest under Article 3, paragraph 1, of the Convention, but may be covered by one of the items listed, depending on the circumstances. The AIG invites the Party to provide further information about the meaning of professional secrecy according to the Spanish legislation and how Article 14(1) (j) of the Law on Transparency complies with the Convention.

17. The AIG notes that according to Article 18 (1) of the Law on Transparency, requests for information shall be denied if they refer to: information that is being drafted or that is for general publication; auxiliary or supporting information, such as the content of notes, drafts, opinion papers, summaries, internal communications and reports or exchanges between administrative bodies or entities; or information which would require a previous action of redrafting in order to be disclosed. The AIG invites the Party to clarify to what extent these grounds for denial of requests are different from that provided in Article 14(1) (k) of the Law on Transparency, according to which the right of access may be limited when access to the requested information may compromise the safeguarding of confidentiality or secrecy required in decision-making processes.

18. All limitations provided for by Article 14 are subject to a harm test laid down in its paragraph. Their “application shall be justified by and proportional to the level of protection required and shall take into account the circumstances of each specific case, especially the confluence of a higher public or private interest justifying access” (Article 14(2)). Thus, an overriding public interest test is carried out on a case-by-case basis. These provisions are in line with article 3, paragraph 2, of the Convention. However, the Act does not provide for a similar harm and balancing test in respect of inadmissibility under Article 18, paragraph 1, sub-paragraphs a-c, of the Act.

19. The Law on Transparency sets out specific rules on access to information containing different types of personal data based on their sensitive nature.

20. First, access to information containing data revealing the ideology, trade union membership, the religion or beliefs of a data subject, may only be granted with his/her express written consent unless the data subject has manifestly made the data public prior to the request for information. Access to information containing data concerning the data subject's racial origin, health or sex life, or genetic or biometric data, or data relating to the commission of criminal or administrative offences by the data subject which do not entail a public reprimand of the offender, may only be granted with the explicit consent of the data subject or when this is provided by law (Article 15(1)).

21. These provisions appear to contain a presumption that the disclosure of sensitive data is harmful to the data subject's privacy, which can be rebutted by the written or explicit consent of the data subject, when the requested information is already public or when the law so provides. Limitations of access provided for by Article 15(1) are not subject to an overriding public interest.

22. The AIG recalls the two principles set out in Article 3, paragraph 2, of the Convention, namely the harm test principle and the principle of balancing the interest of public access to official documents against the interest protected by the limitation. According to the Explanatory Report to the Convention (§38), "[these tests] may be carried out for each individual case or by the legislature through the way in which the limitations are formulated. Legislation could for example set down varying requirements for carrying out harm tests. These requirements could take the form of a presumption for or against the release of the requested document or an unconditional exemption for extremely sensitive information. When such requirements are set down in legislation, the public authority should make sure whether the requirements in the statutory exceptions are fulfilled when they receive a request for access to such an official document. Absolute statutory exceptions should be kept to a minimum."

23. The AIG considers that the limitations of access provided for by Article 15(1) are concerned with sensitive personal information identified in a precise and clear manner. Therefore, they can be considered as being kept to a minimum in the sense of the Convention's Explanatory Report.

24. Second, as regards non-sensitive personal data, access to information containing identification data related to the organisation, functioning or public activity of a public authority shall be granted, except where the protection of personal data or other constitutionally protected rights prevail over the public interest in disclosure in the specific case (Article 15(2)). Public authorities shall grant access to information containing personal data after sufficiently considering the public interest of disclosing it and the rights of the party whose data appears on the information requested (Article 15(3)). The Law on Transparency sets out some criteria that must be taken into account in this evaluation, notably (a) that there should be minimum prejudice to those affected derived from the lapse of the periods established in Article 57 of Law 16/1985, of 25 June 1985, on Spanish Historical Heritage; (b) the applicants' justification of their request for purposes of the exercise of a right, or the fact that they are researchers having historical, scientific or statistical motives for seeking access; (c) that there should be minimum prejudice to the rights of those affected in the event that the documents only contain data that merely identify the affected parties; (d) the maximum guarantee of the rights of data subjects in the event that the data contained in the document may affect their privacy or security or relate to minors.

25. Both sub-paragraphs (2) and (3) of Article 15 incorporate a presumption in favour of disclosure of the requested information and a balancing of interests between the right of the data subject and the public interest in accessing the requested information. These provisions are in line with Article 3, paragraph 2, of the Convention.

26. Spain has made the following reservation contained in a Note Verbale from the Permanent Representation of Spain, dated 10 November 2021, deposited at the time of signature of the instrument on 23 November 2021 and confirmed in the instrument of ratification deposited on 27 September 2023:

*"Pursuant to Article 3.1 of the Convention, the Kingdom of Spain reserves the right to limit access to public documents, with the aim of protecting statistical confidentiality under the terms set forth in national and European Union legislations on statistical matters."*

*Pursuant to Article 3.1 of the Convention, for the purpose of protecting, in particular, those interests mentioned under c), e), and f), we specify that public documents containing sensitive information of a tax nature, obtained by the Spanish tax authorities in the exercise of their duties, are confidential and shall not be ceded to third parties, except in the circumstances specified in law, in accordance with the provisions of Articles 34.1.i) and 95 of the Spanish Law 58/2003 of 17 December 2003 (general tax law)."*

27. The AIG notes that the Tromsø Convention does not contain a provision on reservations. In accordance with the general principles of international law codified in Article 19 of the Vienna Convention on the Law of Treaties (1969), a reservation to the Tromsø Convention is permissible when it does not infringe its object and purpose.

28. As regards the reservation on statistical confidentiality, the AIG invites the Party to explain the reasons for this reservation. The Party is also invited to provide further information about its regulation under Spanish legislation, notably what information is subjected to limitations of access, which of the legitimate interests listed in Article 3, paragraph 1, of the Convention do such limitations pursue, and whether a harm test and an overriding public interest test are carried out pursuant to Article 3, paragraph 2, of the Convention.

29. As regards the reservation concerning public documents containing sensitive information of a tax nature, the AIG invites the Party to explain the reasons for this reservation. The Party is also invited to provide further information about the regulation of limitations of access to them, notably what documents are considered as public documents containing sensitive information of a tax nature, when is access to them limited and, in that case, whether a harm test and an overriding public interest test are carried out pursuant to Article 3, paragraph 2, of the Convention.

## **V. Article 4 - Requests for access to official documents**

30. A request for access to information must be sent to the head of the public authority which possesses the information or, in the case of physical or legal persons providing public services or exercising administrative authority, to the administration/body/entity to which they report (Article 17(1)). Central state administration authorities must, under Article 21(2) of the Law on Transparency, put in place special units which are responsible for, *inter alia*, receiving and processing requests for access to information. Other entities included within the scope of application of the Law on Transparency shall clearly identify the competent body responsible for addressing requests for access (Article 21(3)). The Party is invited to clarify whether in practice requests for access to information can be sent by applicants directly to the special units or the competent bodies instead of to the head of the public authority.

31. A request may be lodged by any means and should contain the identity of the applicant, the information being requested, a contact address for the applicant, preferably an email address, and, if applicable, the preferred form of access to the requested information (Article 17(2)). Requests for information from public authorities may be lodged in any of the languages that are co-official in the territory where the public administration is located (Article 17(4)).<sup>3</sup> While the Law on Transparency does not specifically provide for anonymous requests, the Party has shared information with the AIG about the possibility for applicants to lodge an

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<sup>3</sup> According to Article 2(2) of the Law on Transparency, Public Administration includes the entities listed in Article (1), sub-paragraphs 1-d, notably the central state administration, local administration, the social security system entities, self-governing bodies, state agencies and publicly-owned business entities which function independently and have external regulatory or supervisory functions over a sector or activity, public law entities with their own legal personality, including public universities.



information request through a new system which guarantees the security and confidentiality of communications between the public and the public administration.

32. According to Article 17(3) of the Law on Transparency, “applicants are not required to provide grounds for the request to access information. Nevertheless, they may explain their motives for requesting the information, which may be taken into account when the decision is made. However, the absence of grounds may not be the sole reason for rejecting a request.” The AIG notes that it appears that a request for information may be rejected on a combination of grounds, including the reasons for requesting information. The Party is invited to provide further information, preferably examples, of when this is the case, and to explain how such grounds may be considered relevant when determining whether an exemption from disclosure applies.

## **VI. Article 5 – Processing of requests for access to official documents**

33. The Law on Transparency does not require the public authority receiving an access request to help the applicant, as far as reasonably possible, to identify the requested official documents. According to Article 19(1), when the request does not sufficiently identify the information sought, the applicant shall be asked to specify this within ten days, stating that, if this is not done, the request shall be considered withdrawn, and the period for providing a decision shall be suspended. The Party is invited to clarify whether the legal duty to help the applicant is provided in other legislation applicable to requests for information in Spain.

34. It is not clear from the provisions of the Law on Transparency how a public authority receiving a request for access to an official document deals with the request when it does not hold the requested document. According to Article 18(1), sub-paragraph d, such requests shall be denied, based on a substantiated decision, if they were sent to a body which does not possess the information, when the competent body is not known. The denial decision should indicate the authority which, in the opinion of the public authority denying the request, has the authority to process the request (Article 18(2)). However, according to Article 19(1) of the Law on Transparency, if a request refers to information not in the possession of the body to which it is addressed, the said body shall send it on to the competent body, if known, and inform the applicant of this situation. The Party is invited to clarify how Article 18(2) and Article 19(1) of the law are interpreted and how they interrelate. In particular, it should be clarified when a rejection decision is issued and when an access request is transferred from the receiving authority to the authority that is considered as competent for processing the request.

35. According to Article 19(4) of the Law on Transparency, when the requested information is in the possession of the body receiving the request and has been drafted or generated mainly or in its entirety by a third party, the request shall be sent to said third party for a decision on access. The Party is invited to clarify who is considered as a third party under this provision, what the rationale is for this provision and whether and how the third party makes a decision in accordance with the Law on Transparency.

36. The Party is invited to provide information about how the principle of Article 5, paragraph 3, of the Convention according to which requests for access to official documents shall be dealt with on an equal basis is implemented. Notably, it should be clarified whether, in the processing of requests, distinctions are made on the basis of the nature of the request or the status of the applicant.

37. A decision to either grant or deny access to the requested information must be sent to the applicant and to the affected third parties that have so requested within a maximum of one month after the receipt of the request by the body responsible for taking a decision. This period may be extended by another month if the volume or complexity of the information requested so necessitates, and after notifying the applicant (Article 20(1)). This period can be suspended

for up to 15 days if the requested information could affect the rights or interests of duly identified third parties, during which time they can present their arguments; the applicant is informed of this suspension (Article 19(3)). According to Article 22(1), when access cannot be given at the time of notification of the decision granting access, it should be provided, in all cases, within a maximum of ten days. It is not clear what this provision is concerned with, notably under which circumstances access cannot be given. This point would benefit from clarification from the Party. If no decision is made within the deadlines, a request shall be considered as denied (Article 20(4)).

38. The AIG recalls that based on Article 5, paragraph 4, of the Convention, “[a] request for access to an official document shall be dealt with promptly. The decision shall be reached, communicated and executed as soon as possible or within a reasonable time limit which has been specified beforehand.” The AIG is not convinced that the period of one month meets the standard of promptness of the Convention or that it can be considered as a reasonable time for purposes of deciding on whether access to official documents should be granted, especially when no limitations of access apply. It also does not seem justifiable to extend the time limit by 15 days when third parties are involved, by 10 days when access cannot be given at the time of the notification of decision, and by another month where the request concerns voluminous or complex information, except in extreme cases.

39. A request may be refused if it is manifestly “reiterated” or has an abusive nature which is not justified for purposes of transparency under the law (Article 18(1), sub-paragraph e). The Party is invited to clarify which conditions a request should meet in order to be considered as repetitive under this provision.

40. Decisions on denials of access, partial access or access in a form different than that requested, as well as a decision granting access to information which has been opposed by a third party must provide justification of motives (Article 20(2)). The Party is invited to clarify in which form decisions are provided, notably whether they are given in writing.

## **VII. Article 6 – Forms of access to official documents**

41. The Law on Transparency expresses a preference for providing access to the requested official document by electronic means, unless this is not possible, or the applicant has expressly indicated other means (Article 22(1)). This suggests that in line with Article 6, paragraph 1, of the Convention, the applicant has the right to choose whether to inspect the original or a copy, or to receive a copy of it in any available form or format of his or her choice unless the preference is unreasonable.

42. Article 16 of the Law on Transparency provides that partial access to the requested official document shall be granted when limitations of access apply to parts of the information contained in it, unless this would result in providing distorted or senseless information. The applicant must be informed of the information that has been omitted. These provisions are fully in line with Article 6, paragraph 2, of the Convention.

43. The Law on Transparency (Article 22(3)) provides explicitly for the possibility for public authorities to give access to an official document by referring the applicant to easily accessible alternative sources. This is in compliance with Article 6, paragraph 3, of the Convention.

## **VIII. Article 7 – Charges for access to official documents**

44. The principle that access to official documents shall be free of charge is established in Article 22(4) of the Law on Transparency. Fees may be charged for providing copies or transferring data in a format different from the original official document. Fees are charged according to the Act 8/1989, of 13 April, on Public Fees and Prices, or, when applicable, the

regulations of the Autonomous Community or Local Entity. The rules for calculating fees are published online. The Party has informed the AIG that in practice no fees are charged for access to official documents.

45. Also, as regards access to official documents held in central, intermediate and historical archives, fees are charged in accordance with the provisions of their specific regulations.

46. The AIG considers that these principles of the Law on Transparency comply with the requirements of Article 7 of the Convention. However, it requests the Party to provide more concrete information (in either English or French languages) about the fees as charged in practice.

## **IX. Article 8 – Review Procedure**

47. Decisions on access requests may optionally be challenged with the Council on Transparency and Good Governance prior to being appealed before an administrative court. Decisions on access requests by the household of the King, the Congress of Deputies, the Senate, the Constitutional Court, the General Council of the Judiciary and other independent institutions provided for by Article 2(1), sub-paragraph f, of the Law on Transparency can be appealed only before an administrative court (Articles 23(2) and 24(1)).

48. The Council on Transparency and Good Governance is an independent institution established by the Law on Transparency to promote transparency of public activity, to ensure that information is made publicly available as required, to safeguard the right of access to public information and to guarantee the observance of legal provisions on good governance (Articles 33 and 34). The Council is composed of the Chair, appointed by the competent committee of the Congress of Deputies on a proposal by the Minister of the Treasury of Public Administrations, a member of the Congress of Deputies, a Senator, a representative of the Court of Accounts, a representative of the Ombudsman's Office, a representative of the Spanish Data Protection Agency, a representative of the State Secretariat for Public Administrations, a representative of the Independent Authority for Fiscal Accountability (Articles 36(2) and 37(1)).

49. The appeal to the Council may be lodged within one month from the date of notification of the decision on the access request and a decision must be delivered and notified to the applicant within three months from the appeal being lodged. The procedure before the Council follows the provisions of the Act on the Legal System of the Public Administrations and Common Administrative Procedure (Article 24). It is not clear what the legal effects of decisions of the Council are, and whether the Council can order the public authority which has denied access to the requested official document to disclose it to the applicant and, if so, whether the public authority can take the matter to an Administrative Court. The Party is invited to provide further information on these issues.

50. The Party is invited to provide information on the appeals system before administrative courts, notably the time limits and possible fees charged to the applicant.

## **X. Article 9 – Complementary measures**

51. The Party has informed the AIG that in the context of the Open Government Inclusive Communication Plan, it has carried out a campaign during 2022 and 2023 to inform the public about its right to know, understand and participate in the public administration. The campaign was carried out in Spanish, Catalan, Galician, Basque and English. Advertising spots, posters and banners were disseminated via television, radio, the press, magazines, the internet and social networks. In addition, a guide on the exercise of the right of access to public information

has been published on the transparency portal established under Article 10 of the Law on Transparency. These measures are in line with Article 9, first paragraph of the Convention.

52. The National Institute of Public Administration has carried out annual training of employees responsible for dealing with information requests in the relevant units of the public authorities since the enactment in 2013 of the Law on Transparency. The training focuses on the core principles of the Law on Transparency as well as techniques for promoting open data and data protection best practices. The AIG considers that these measures contribute to the implementation of Article 9, paragraph a, of the Convention.

53. Article 8 of the Law on Transparency sets out detailed obligations for public authorities to make public their financial, budgetary and statistical information. This includes contracts, the list of agreements signed, public grants, budgets, compulsory annual accounts and audit reports, annual remuneration of senior officials and heads of entities falling under the scope of application of the Law on Transparency, decisions authorising senior officials to exercise private activities after relinquishing their posts, annual statements of property and activities of local representatives as required by the relevant law, etc. The AIG considers that these measures contribute to the implementation of Article 9, paragraph b, of the Convention.

54. Information units must be created in each public authority and entity falling under the scope of application of the Law on Transparency (Article 9). In addition to processing requests for access to official documents, their responsibilities include maintaining an updated content map identifying the different kinds of information held by the body. The Party has informed the AIG that a set of technical standards established under the national interoperability scheme regulate the storage and management of official documents. These include standards on the digitalisation of documents, electronic files and documents, lists of data models, and others. The AIG considers that these measures contribute to the implementation of Article 9, paragraph c, of the Convention.

55. Specific rules for the preservation and destruction of documents held by public authorities are laid down in the Royal Decree 1708/2011 (18 November 2011) which establishes the Spanish Archive System. This instrument regulates conservation schedules and procedures, transfer of documents from public authorities to the General Archive of Administration, as well as the disposal of the documents held in each type of archive. The AIG considers that these measures contribute to the implementation of Article 9, paragraph d, of the Convention.

## **XI. Article 10 – Documents made public at the initiative of the public authorities**

56. The Party has informed the AIG that public authorities are obliged to publish guidelines, instructions, agreements, circulars or responses to queries raised by individuals or other bodies to the extent that they involve an interpretation of the Law or have legal effects; preliminary draft laws and draft Legislative Decrees for whose initiatives they are responsible, when opinions are requested from the corresponding consultative bodies; draft regulations for which they are responsible and supporting reports; and documents that, in accordance with the sectorial legislation in force, must be submitted to a period of public information.

57. The AIG considers that these measures, together with those taken in application of Article 8 of the Law on Transparency (see paragraph 54 of the present report), contribute to the implementation of Article 10 of the Convention.

## **XII. Conclusions and recommendations**

59. The provisions of the Law on Transparency are generally in line with Article 1, paragraph 2, sub-paragraph a, i, of the Convention. However, final conclusions on certain aspects of compliance with this provision will be drawn only after receiving the requested information from the Party.

60. A final conclusion on compliance with Article 1, paragraph 2, sub-paragraph b, of the Convention will be drawn after receiving the requested information from the Party.

61. A final conclusion on compliance with Article 2, paragraph 1, of the Convention will be drawn after receiving the requested information from the Party.

62. Limitations to the right of access to public information are listed by Articles 14 and 15 of the Law on Transparency. The limitation(s) set out in:

- Article 14(a)(b)(c) correspond to Article 3, paragraph, 1, sub-paragraph a, of the Convention;
- Article 14(1)(d) corresponds to Article 3, paragraph 1, sub-paragraph b, of the Convention;
- Article 14(1) (e) corresponds to Article 3, paragraph 1, sub-paragraphs c and d, of the Convention;
- Article 14(1) (f) corresponds to Article 3, paragraph 1, sub-paragraph i, of the Convention;
- Article 14(1) (g) corresponds to Article 3, paragraph 1, sub-paragraph e, of the Convention;
- Article 14(1) (h) corresponds to Article 3, paragraph 1, sub-paragraph g, of the Convention;
- Article 14(1) (i) corresponds to Article 3, paragraph 1, sub-paragraph h, of the Convention;
- Article 14(1) (k) appears to correspond to Article 3, paragraph 1, sub-paragraph k, of the Convention;
- Article 14(1) (j) corresponds partially to Article 3, paragraph 1, sub-paragraph g, of the Convention;
- Article 14(1) (l) corresponds to Article 3, paragraph 1, sub-paragraph j, of the Convention;
- Article 15(1)-(3) correspond to Article 3, paragraph 1, sub-paragraph f, of the Convention.

Conclusions on compliance with Article 3, paragraph 2, of the Convention will be completed after receiving the requested information from the Party.

63. Conclusions on compliance with Article 4 and 5 of the Convention will be completed after receiving the requested information from the Party.

64. The Law on Transparency implements the principles and the requirements of Articles 6 and 7 of the Convention.

65. Conclusions on compliance with Article 8 of the Convention will be completed after receiving the requested information from the Party.

66. The Party has taken satisfactory measures to implement Articles 9 and 10 of the Convention.